

CHAPTER 3

REQUIREMENTS FOR PARTICIPATING SERVICE AUTHORITIES

1. GENERAL REQUIREMENTS.

a. Establishment of a Service Authority. Section 22710 California Vehicle Code (VC) states a Service Authority (hereinafter referred to as “Authority”) for the abatement of abandoned vehicles may be established in any county if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county have adopted resolutions providing for the establishment of the Authority and the imposition of the vehicle registration fee to be used in funding the Abandoned Vehicle Abatement (AVA) Program.

b. Service Fee. Section 9250.7 VC states an Authority established pursuant to the provisions of Section 22710 VC may impose a fee of one dollar (\$1) on vehicles registered to an owner with an address in the county that established the Authority.

(1) The fee shall be paid to the Department of Motor Vehicles (DMV) at the time of registration, or renewal of registration, or when renewal becomes delinquent, except on vehicles that are expressly exempted from the payment of registration fees.

(2) The fee imposed by an Authority will remain in effect for a period of ten years from the date the actual collection of the fee commenced. The Authority may elect to extend the fee in increments of up to 10 years, by adopting resolutions by the county board of supervisors and the cities participating in the AVA Program, providing for the extension of the fee. (See Annex 3-D-1.)

(3) DMV will deduct its administrative costs from the fees and transmit the net amount collected to the State Controller (SC), at least quarterly, for deposit in the abandoned Vehicle Trust Fund.

c. Abandoned Vehicle Trust Fund. All money in the fund is continuously appropriated by the SC for allocation to an Authority that has an approved AVA plan as required by the provisions of Section 22710 VC.

(1) The SC will deduct administrative costs from the fund.

- (2) After deduction of its administrative costs, the SC shall allocate the money in the Abandoned Vehicle Trust Fund to each Authority in proportion to the revenues received from the fee imposed by that Authority.
- d. Membership. Section 22710 VC states that the membership of the Authority shall be determined by concurrence of the board of supervisors and a majority vote of the cities within the county having a majority of the incorporated population.
- e. Service Authority Staffing. Section 22710(b) VC states that the Authority shall be staffed by existing county and city personnel.
- (1) "Existing personnel" means those persons employed by the county or city prior to establishment of the Authority. AVA funding cannot be used to establish new positions; however, funding from the Abandoned Vehicle Trust Fund may be used to fund existing positions.
- (2) Personnel years added after the establishment of the Authority cannot be funded through moneys disbursed from the Abandoned Vehicle Trust Fund.
- f. Authorizations Granted to the Service Authority. Section 22710 VC authorizes the Authority to do the following:
- (1) Contract and undertake any act convenient or necessary to carry out any law relating to the Authority; and
- (2) Notwithstanding any other provision of law, adopt an ordinance establishing procedures for the abatement, removal, and disposal as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property; and for the recovery, pursuant to Sections 25845 or 38773.5 of the California Government Code (GC), or assumption of costs of administration, removal and disposal.
- g. Removal and Disposal of Vehicles. Section 22710 VC requires the actual removal and disposal of vehicles only be undertaken by a county, city, or the Department of the California Highway Patrol (CHP), pursuant to a contract with the Authority.
- (1) This includes subcontracting for towing, dismantling, and disposal services when necessary.
- (2) The CHP has prepared a sample AVA report (Annex 3-B-1) which may be used for vehicles marked for abatement by a participating jurisdiction. An Authority may revise the sample report for use in their AVA operations or use

the CHP 180, Vehicle Report. As a minimum, an AVA Report shall include the information listed on the sample.

h. Authorized Expenditures. The money received by an Authority pursuant to VC Sections 22710 and 9250.7 shall only be used for the abatement, removal, and disposal as public nuisances of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property. This includes all expenses related to the abatement, removal and disposal of the vehicles specified above.

i. Approval of the Authority's AVA Plan. The following are requirements relating to the approval of an Authority's AVA plan:

(1) The CHP shall provide guidelines for the preparation of AVA plans and all Authority AVA plans shall be consistent with those guidelines.

(2) Once the Authority's plan has been approved by the county and the required cities having a majority of the incorporated population, the Authority shall submit the plan to the CHP for approval not later than August 1st, of the year in which the plan was approved by the county.

(3) The CHP shall review the plan and make recommendations for revisions, if necessary, by October 1st, or approve the plan as submitted.

(4) If the plan requires revisions, the Authority shall make the revisions and resubmit it to the CHP as soon as possible. If it is determined that the plan is consistent with the guidelines, the CHP shall submit the approved plan to the SC by the following January 1st.

(5) Any approved plan adopted by the Authority may be revised at any time with approval of the Authority's board of directors. Copies of any revisions to local ordinances that impact the AVA Program shall be forwarded to the CHP to ensure the AVA plan is current. The CHP shall review the revisions to the plan and make recommendations, if necessary.

j. Disbursement of Funds by the State Controller. The SC shall allocate the money in the Abandoned Vehicle Trust Fund to each Authority in proportion to the revenues received from the fee imposed by the Authority. The Authority shall disburse the money in the Abandoned Vehicle Trust Fund to each of its jurisdictions based on the percentage of abandoned vehicles abated as reported on their annual reports. The SC shall not make allocations for a calendar year to an Authority for which an approved plan was not received before January 1st of that year or when a county has failed to provide its annual reports as required.

k. Dissolution of a Service Authority. An Authority shall cease to exist on the date that all revenues received by the Authority pursuant to VC Sections 22710 and 9250.7 have been expended.

2. GUIDELINES FOR THE DEVELOPMENT OF AN ABANDONED VEHICLE ABATEMENT PLAN.

NOTE: The AVA plan developed by an Authority, established pursuant to Section 22710 VC and CHP guidelines shall, at a minimum, contain the following: (See Annex 3-C-1 for an AVA Sample Plan.)

a. Required Resolutions. Copies of the following required resolutions shall be submitted as part of the Authority's approved AVA plan:

(1) A copy of the resolutions providing for the establishment of the Authority, including identification of its membership, and the imposition of the one dollar (\$1) registration fee pursuant to the requirements of VC Sections 22710(a) and 9250.7(a).

(2) A copy of the resolution of approval of the AVA plan, as required by Section 22710(d)(11) VC.

(3) A copy of resolutions approving revisions to a previously approved AVA plan as specified in Section 22710(e) VC, if applicable.

b. Estimate of the Number of Abandoned Vehicles. The approved AVA plan shall include an estimate of the number of abandoned vehicles located within the county serviced by the Authority, as required by Section 22710(d)(2) VC.

c. Copies of Ordinances. The approved AVA plan shall include copies of the ordinances which have been established pursuant to Section 22710(c)(1) VC.

(1) This includes the ordinance establishing procedures for the abatement, removal, and disposal as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property.

(a) Any such ordinances shall meet all of the requirements of VC Sections 22660 and 22661.

(b) An Authority may adopt an existing ordinance which meets all the requirements of VC Sections 22660 and 22661.

(2) This includes the ordinances(s) developed for recovery, pursuant to GC Sections 25845 or 38773.5, or assumption by the Authority, of costs of administration and removal and disposal.

d. Disposal and Enforcement Strategy. The approved AVA plan shall include an enforcement and disposal strategy.

(1) The enforcement strategy should include enforcement of Section 22523 VC and local ordinances adopted for the purposes of abatement, removal, and disposal as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property.

(2) The statutory authority to remove abandoned vehicles from highways or private or public property may be either Section 22669 VC or a local ordinance adopted for the purposes of abatement, removal, and disposal as public nuisances, of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof from private or public property.

(3) The disposal strategy may be in accordance with the provisions of Section 22662 VC or by contractual agreement(s) with a licensed auto dismantler or scrap iron processor, in accordance with the provisions of Section 22851.3 VC.

e. Disbursement of Funds. The Authority shall disburse AVA funds to their jurisdictions based on the percentage of vehicles abated by the jurisdictions as reported on their annual status reports.

f. Cost Recovery Strategy. The approved AVA plan shall include a cost recovery strategy which includes a strategy for recovery of costs associated with the administration, removal, and disposal of vehicles or parts thereof abated from private or public property. This may be accomplished through strategies related to the provisions of Section 22523 VC, or GC Sections 25845 or 38773.5.

g. Contractual Agreements. The approved AVA plan shall include copies of contractual agreements the Authority has entered into in order to carry out the law relating to the Authority.

NOTE: Contracts with counties, cities, or the CHP for the actual removal or disposal of vehicles, and contractual agreements with providers of towing and storage services, automobile dismantlers, or scrap iron processors.

h. Appropriate Fiscal Controls. The approved AVA plan shall include measures ensuring proper fiscal controls, including, but are not limited to the following:

- (1) Measures for accounting for the gross amount of funds that the Authority received from the Abandoned Vehicle Trust Fund.
- (2) Measures for an itemized accounting for the Abandoned Vehicle Trust Fund monies expended by the Authority.
- (3) Measures for accounting for the total number of vehicles or parts thereof abated as a result of the Authority's abatement, removal and disposal efforts.
- (4) Measures for conducting internal audits by the Authority. The internal audits shall be conducted at least annually.

i. Guidelines for Major Purchases. The guidelines for major purchases to satisfy the requirements of Section 22710(c)(2) VC, shall provide for, but not be limited to, an estimate of the number of abandoned vehicles, a disposal and enforcement strategy including contractual agreements, and appropriate fiscal controls.

- (1) Purchases below the amount of \$2,500 may be approved by the local jurisdiction.
- (2) Purchases exceeding \$2,500 will require participating jurisdictions to request approval from their Authority. These requests shall include a detailed justification.
- (3) When evaluating a request, Authorities shall ensure the funds are being expended in accordance with Section 22710(c)(2) VC and for the benefit of the AVA Program.
- (4) Requests for major purchases exceeding \$2,500 may be referred to the Authority's board of directors or board of supervisors, should the purchase require an additional level of approval.
- (5) After approval of a major purchase, the Authority shall forward a copy of the request to the CHP to be retained with the Authority's AVA plan.

j. Return of Unexpended Funds. Any funds received by an Authority, pursuant to Section 9250.7 VC, that are not expended to abate abandoned vehicles, pursuant to an approved AVA program within 90 days of the close of the fiscal year in which the funds were received, shall be returned to the SC for deposit in the Motor Vehicle Account, State Transportation Fund.

3. REPORTING REQUIREMENTS.

a. In order to meet its obligation mandated by the Legislature, an established Authority shall submit a report on an annual basis to the SC pursuant to Section 22710(d) VC. (Refer to Chapter 2, Annex A, page 2-A-7 for specific VC language.) The SCO has developed Annual Status Report Forms (see Annex 3-A-1) for the Authorities and their jurisdictions. These Annual Status Reports contain the required reporting information to satisfy the Legislature's intent of appropriate fiscal controls.

b. These Annual Status Reports shall be submitted to the SC no later than 90 calendar days following the last required report to ensure ongoing funding from the SC. The report shall contain only the following information:

- (1) The total revenues received by the service authority for the previous fiscal year.
- (2) The total expenditures by the service authority for the previous fiscal year.
- (3) The total number of vehicles abated during the previous fiscal year.
- (4) The average cost of abatement during the previous fiscal year.
- (5) Any additional, unexpended fee revenues for the service authority for the previous fiscal year.

4. SERVICE AUTHORITY SUNSET EXTENSION GUIDELINES.

a. The Authority may extend their sunset date by increments of up to 10 years if the board of supervisors of the county, by a two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county adopt resolutions providing for the extension of the service fee.

b. The Authority shall send the resolutions, along with a cover letter requesting the extension of the service fee, to the CHP. The cover letter shall include both the current sunset date and the extended sunset date. The CHP, upon review, will forward the cover letter and the resolutions to DMV and the SC.

5. AUDIT GUIDELINES.

- a. The Authority and their jurisdictions shall conduct annual audits to ensure that funds are being spent in compliance with VC Sections 9250.7 and 22710. Audits may be performed by the city or county auditor/controller or may be contracted with a certified public accountant or public accountant pursuant to Section 6505 GC.
- b. The auditor shall report all revenue and disbursements, receipts for purchases, and administrative costs, in the annual audit of the Authority pursuant to the requirements of Section 6505 GC.
- c. Any authorized auditor shall have access to any books, documents, papers, records, reports, including, but not limited to, financial records pertinent to the Authority and its jurisdiction for the purpose of making an audit, evaluation, or examination.
- d. The audit records shall be retained by the Authority, jurisdiction, auditor controller, certified public accountant, or public accountant for a period of current plus four years.